

WELCOME TO THE U.S. NATIONAL CONTACT POINT PEER REVIEW



September 27-29, 2017

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HIGH-LEVEL ENDORSEMENTS

G20 Leaders' Declaration (2017)

“We **support access to remedy** and, where applicable, non-judicial grievance mechanisms, such as the **National Contact Points for the OECD MNE Guidelines (NCPs)**.”

G7 Leaders' Declaration (2015)

“We also **commit to strengthening mechanisms for providing access to remedies including the National Contact Points (NCPs)** for the OECD Guidelines for Multinational Enterprises. In order to do so, the G7 will encourage the OECD to promote peer reviews and peer learning on the functioning and performance of NCPs. We will ensure that our own NCPs are effective and **lead by example**.”

U.S. NCP PEER REVIEW

U.S. is **5th** out of 7 G7 countries
to do a Peer Review

& 15th out of 47 NCPs to
complete a Peer Review

U.S. NCP'S THREE ROLES

- **Promote** awareness and encourage implementation of the Guidelines to business, labor, and members of civil society, the general public, and the international community.
- **Facilitate practical application** of the Guidelines by bringing business and civil society together to identify potential and emerging RBC-related risks and discuss appropriate actions and responses under the Guidelines.
- **Offer a “Specific Instance” mediation process** to be used when a party raises allegations against an MNE’s operations, focusing on finding a resolution between the parties through mediated dialogue.

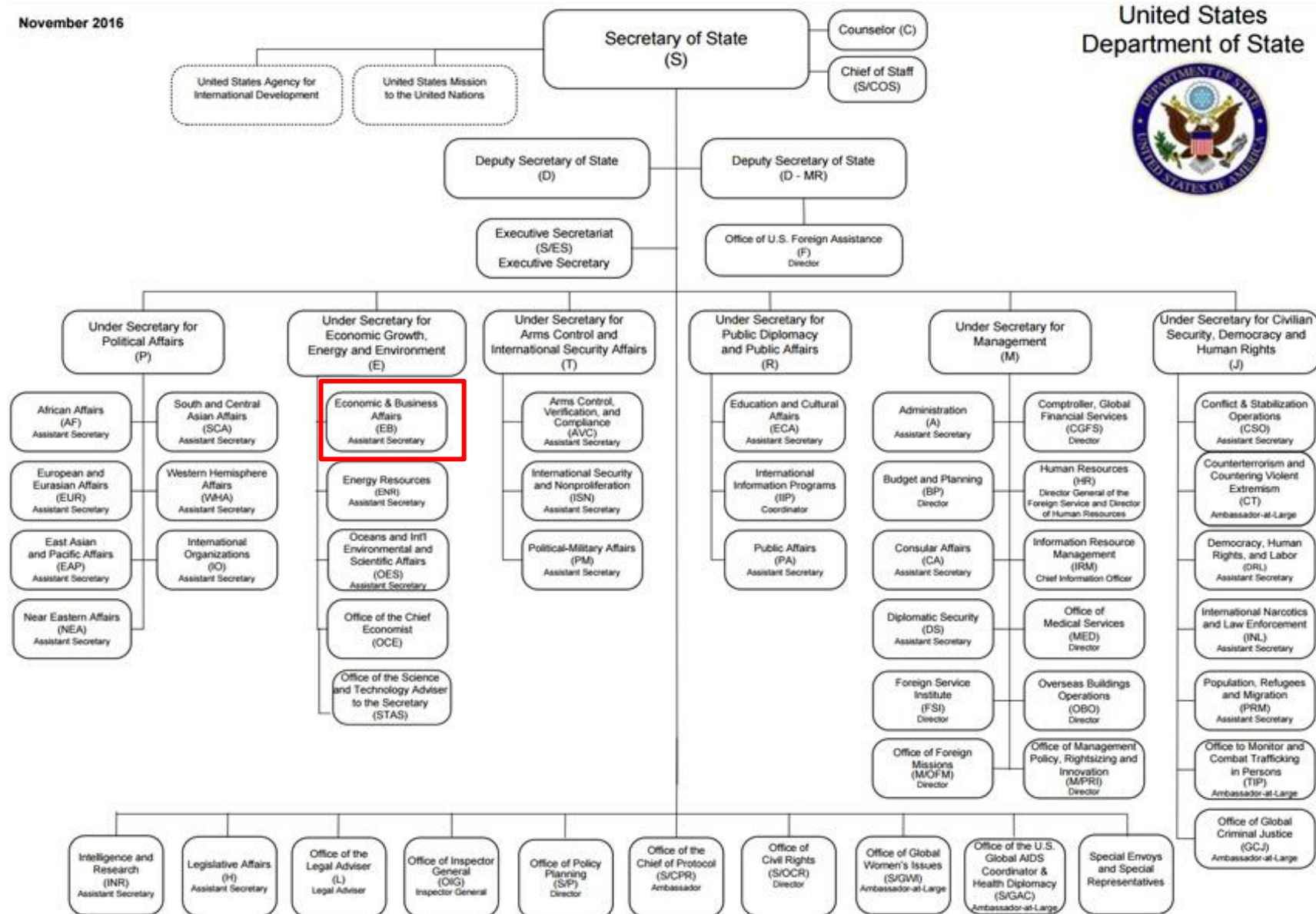
GOOD NEWS! SINCE 2012, THE U.S. NCP HAS:

- **Tripled team size**
- **Published written procedures**
- **Hired mediators (FMCS & CBI)**
- **Created the U.S. NCP website (rules of procedure, contact info, promotional events, process questions, languages)**
- **Issued Final Statements**
- **Created the Stakeholder Advisory Board**
- **Implemented stakeholder feedback**
- **Expanded USG training on NCP/RBC**
- **Conducted extensive outreach**

STRUCTURE OF THE U.S. NCP

November 2016

United States
Department of State



U.S. NCP STRUCTURE & TEAM

Economic and Business Affairs Bureau

Three Full-Time Staff

- Melike Ann Yetken
- Alan Krill
- Erin Clancy

Broader RBC Agenda and Portfolio

- RBC issues at the OECD
- Award for Corporate Excellence – high level buy-in
- Advisory Committee on International Economic Policy

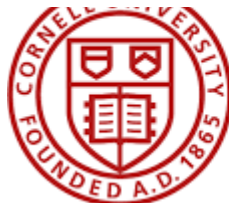
INTERAGENCY WORKING GROUP (IWG)



MILLENNIUM
CHALLENGE CORPORATION
UNITED STATES OF AMERICA



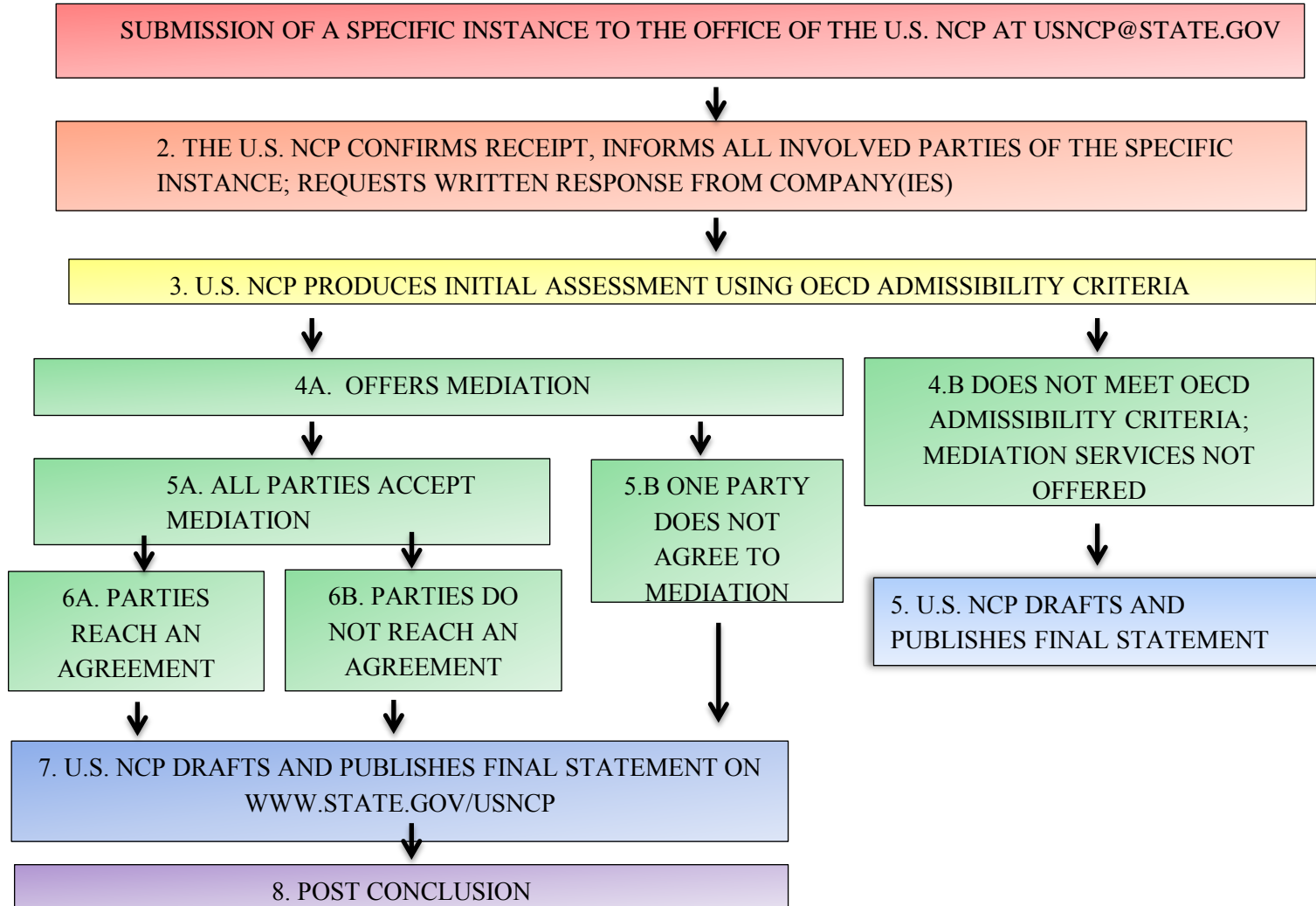
STAKEHOLDER ADVISORY BOARD (SAB)



(*Organization logos are used for institutional identification purposes only.)

SPECIFIC INSTANCE PROCESS

OVERVIEW: U.S. NCP PROCESS FOR A SPECIFIC INSTANCE



U.S. NCP Detailed Specific Instance Process: Phase 1

Phase 1: Submitting a Specific Instance (SI)

- To initiate the SI process, a submitter sends a SI to the Office of the U.S. NCP at USNCP@state.gov
- The U.S. NCP acknowledges receipt and informs all involved parties of the SI which includes →

The Submitter(s): The U.S. NCP will acknowledge receipt, describing the Guidelines, explain the role of the U.S. NCP and its procedures, and request one lead point of contact.

The Company(ies): The U.S. NCP will inform the company/ies named by sending a copy of the SI, describe the Guidelines and the purpose and function of the NCP, share the U.S. NCP procedures, request a senior point of contact within the company, and request a written response to the allegations made.

The Interagency Working Group (IWG):
The U.S. NCP will consult subject-matter experts within the U.S. government on the issues raised.

Other NCPs and the OECD Secretariat:
The U.S. NCP will inform and coordinate as appropriate.

U.S. NCP DETAILED SPECIFIC INSTANCE PROCESS: PHASE 2

Phase 2: Initial Assessment

- The U.S. NCP conducts an Initial Assessment using the OECD's Admissibility Criteria →

1. The identity of the party concerned and its interest in the matter;
2. Whether the issue is material and substantiated;
3. Likely link between the enterprise's activities and the issue raised;
4. Relevance of applicable law and procedures, including court rulings;
5. Treatment of similar issues in other domestic or international proceedings; and,
6. Contribution of the specific issue to the purposes and effectiveness of the Guidelines.

U.S. NCP DETAILED SPECIFIC INSTANCE PROCESS: PHASE 3

Phase 3: Two Options

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graph TD; A[Phase 3: Two Options] --> B[Mediation Offered]; A --> C[Mediation Not Offered];
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Mediation Offered

If mediation is offered, parties have the opportunity to accept.

Mediation Not Offered

If mediation is not offered, the parties are informed through the Initial Assessment and then the Office of the U.S. NCP drafts a Final Statement that is shared with the parties for fact checking input before it is published on www.state.gov/usncp.

U.S. NCP MEDIATORS

- **Federal Mediation and Conciliation Service (FMCS)**
- **Consensus Building Institute**

POST CONCLUSION FOLLOW-UP

One year after successful mediation, each party is asked to submit a confidential report to the U.S. NCP on the following:

- **The status of the implementation of the agreement;**
- **The summary of the recommendations taken into effect since the Final Statement;**
- **Any continued conversation between the involved parties;
Any other relevant information.**

U.S. NCP SPECIFIC INSTANCE STATISTICS

- 45 cases since 2000 (11% of global cases)
- Second highest number of cases of the NCPs (UK has the most: 48)
- 18 cases since 2012
- 12 cases we offered mediation
- 3 Specific Instances went to mediation

SPECIFIC INSTANCE SESSIONS

Peer Review: Evaluation of Cases Completed

- No discussion of on-going and current cases per confidentiality

Specific Instance Consultations:

- IUF and Starwood
- IUF and PepsiCo.
- Herakles Farms and CED/RELUFA



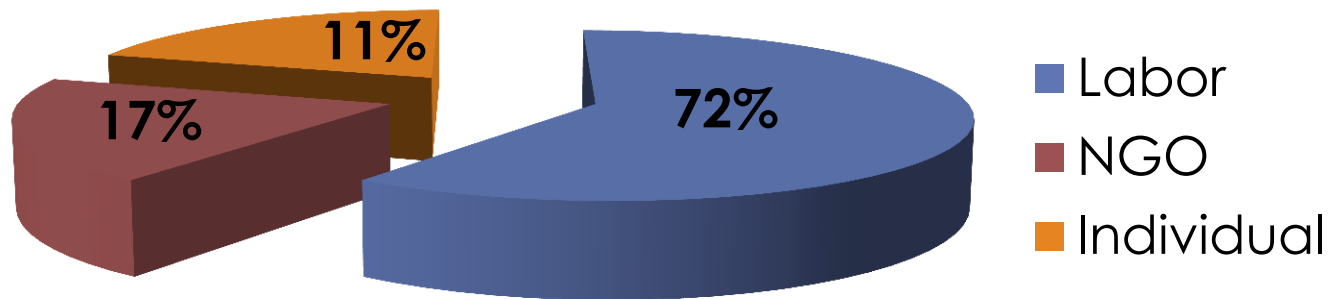
PEPSICO

Since 2012

- Most Cited Chapters:
 1. Employment
 2. Human Rights
- 50% cases involve issues in the U.S
- 50% involve issues from abroad

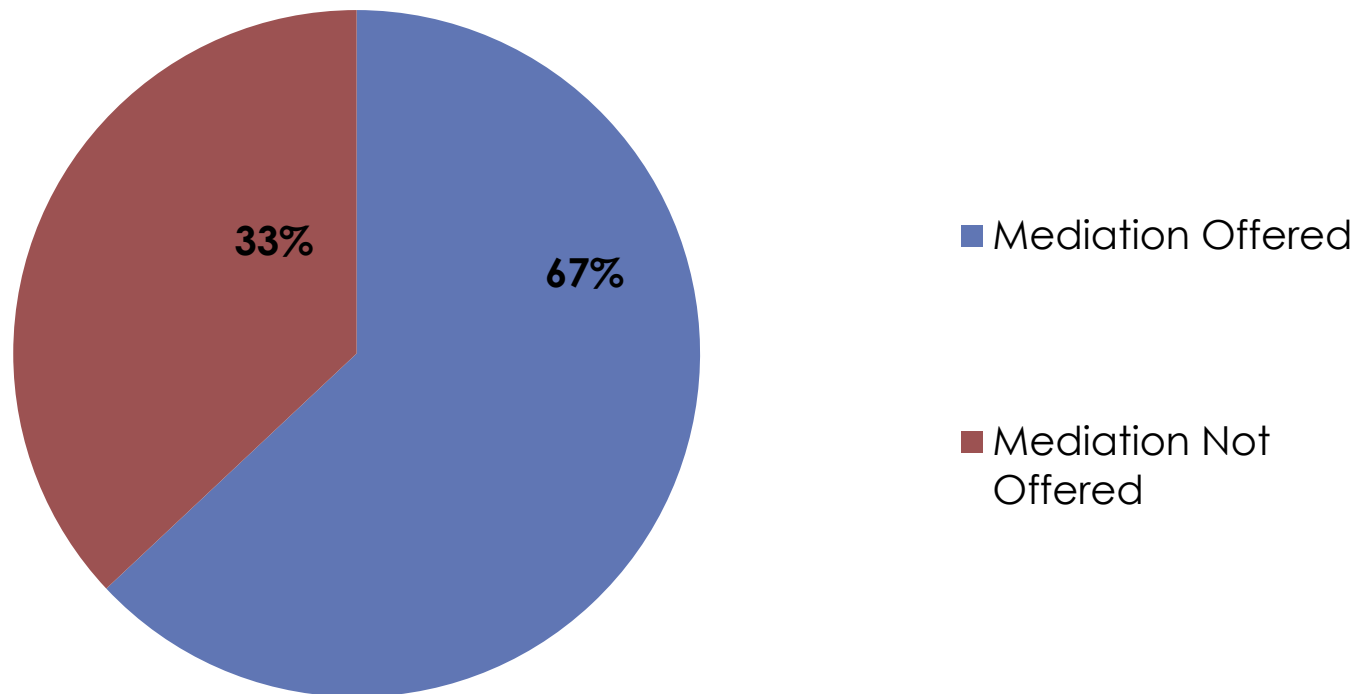
U.S. NCP SPECIFIC INSTANCE STATISTICS

Submitters



U.S. NCP SPECIFIC INSTANCE STATISTICS

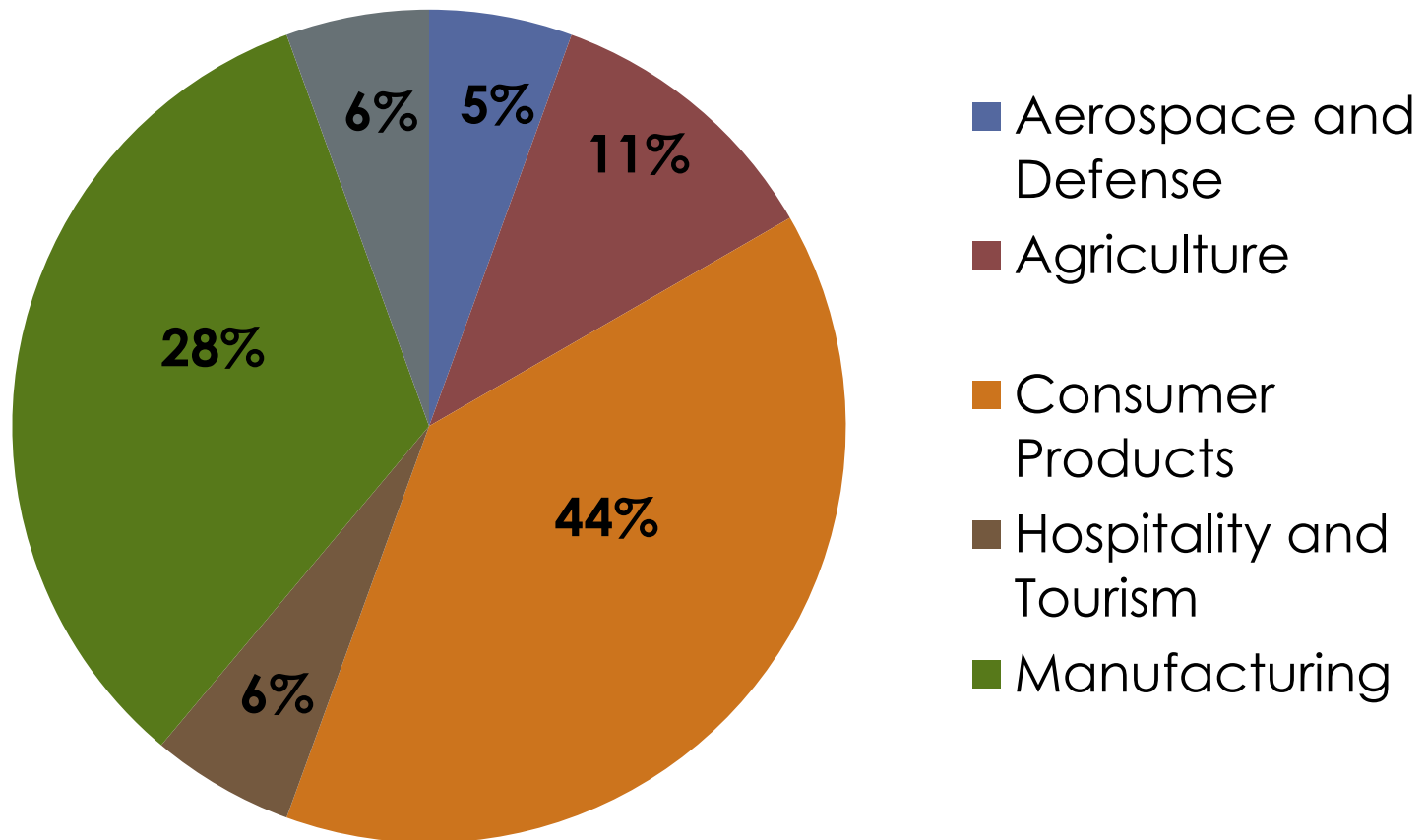
Specific Instance Completed Results



In 2/3 of the cases we offered mediation and 2/3 of the cases that went to mediation resulted in an agreement.

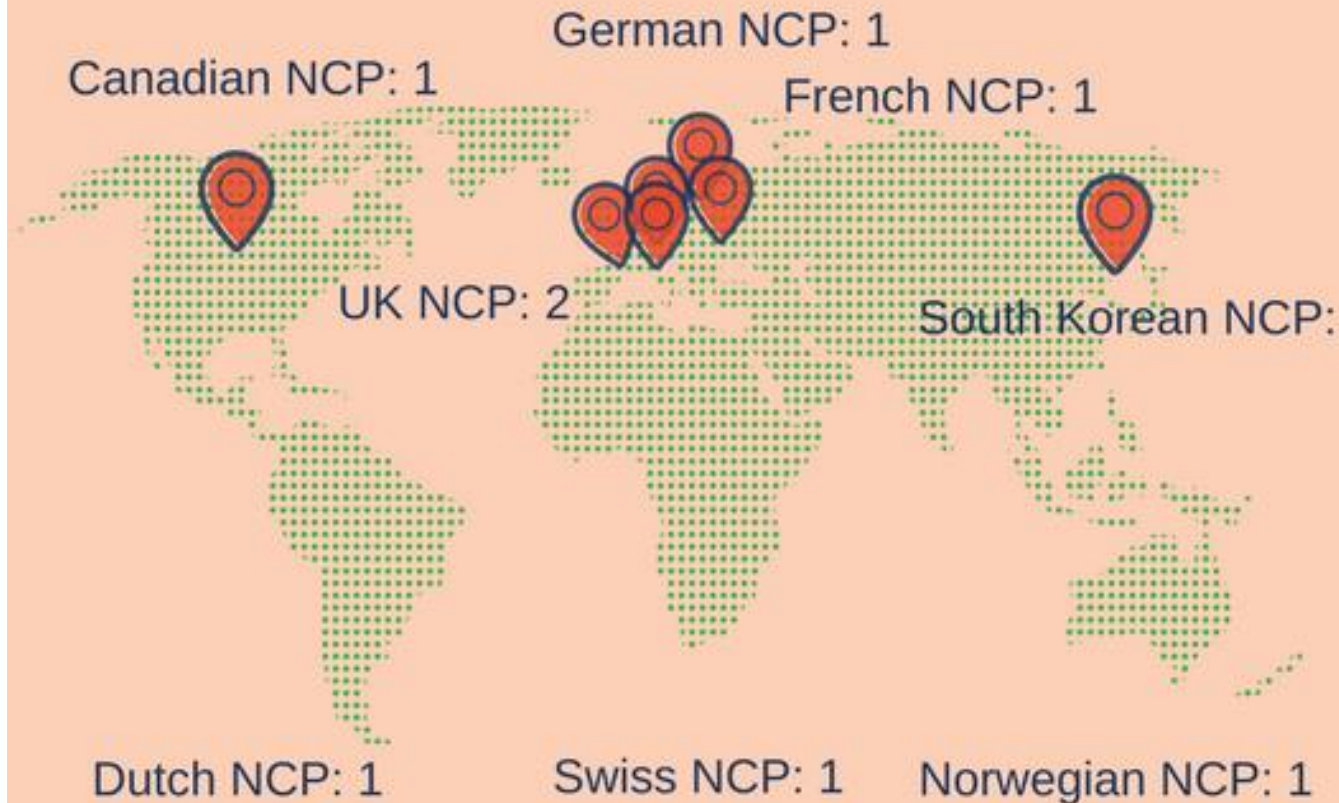
U.S. NCP SPECIFIC INSTANCE STATISTICS

Sectors Covered



SUPPORTING NCP ROLE

Cases U.S. NCP Consulted On



CONFIDENTIALITY

Confidentiality Procedures

- Clear expectations and clearly stated

Balance between transparency and confidentiality

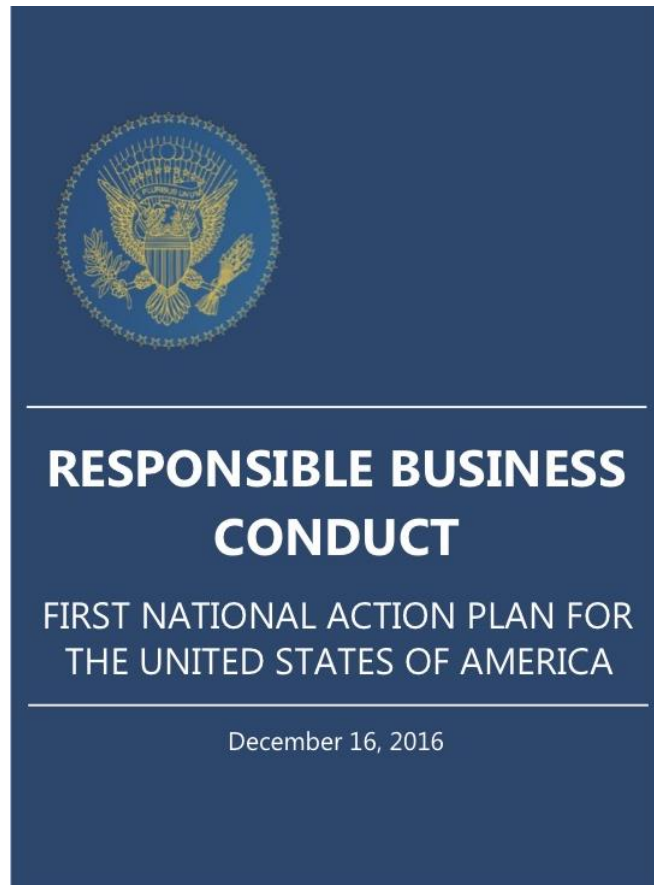
Campaigning



**A Guide to the U.S. National Contact
Point for the OECD Guidelines for
Multinational Enterprises**

August 2017

NATIONAL ACTION PLAN



National Action Plan on Responsible Business Conduct

- Broad U.S. government coordination to promote & incentivize RBC
- Core Commitments
 - ✓ Share best practices & support high standards
 - ✓ Highlight success stories
 - ✓ Implement effective mechanisms to address negative impacts
 - ✓ Purchase & finance responsibly for USG

• www.state.gov/rbc

COMMUNICATION & OUTREACH

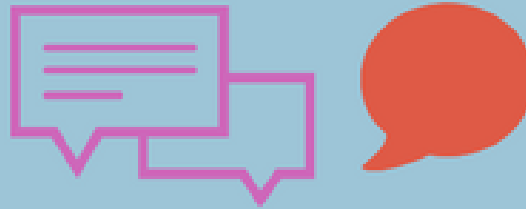
HOW WE DO IT

1



Online

2



In Person

3



Outreach

COMMUNICATION & OUTREACH



In This Section:
About the U.S. NCP
U.S. NCP Guide
OECD Guidelines
Submitting a Specific Instance
Final Statements
Sector-Specific Implementation Guidance
Recent Experiences with the U.S. NCP
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U.S. National Contact Point for the OECD Guidelines for Multinational Enterprises



INTRODUCTION TO THE U.S. NATIONAL CONTACT POINT

Businesses face a range of different expectations for responsible practice from investors, consumers, employees, civil society organizations, the general public, and governments. To provide a coherent and comprehensive approach to responsible business conduct, the 35 member governments of the Organization for Economic Cooperation and Development (OECD) and 11 non-member governments endorsed the OECD Guidelines for Multinational Enterprises.

The OECD Guidelines for Multinational Enterprises

In 1976, the OECD established its Guidelines for Multinational Enterprises ("the Guidelines"), a comprehensive set of recommendations by governments to multinational enterprises (MNEs) to voluntarily adopt to minimize and resolve impacts which may arise from their operations in foreign jurisdictions and to encourage positive contributions to economic, social and environmental progress. The Guidelines form one part of a broader OECD investment instrument called the Declaration on International Investment and Multinational Enterprises, a policy commitment by adhering governments to provide an open and transparent environment for international investment.

The Guidelines cover issues such as human rights, environment, labor, anti-bribery, corporate governance, disclosure, supply chain management, and taxation. The Guidelines have received broad support internationally, and are the only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting. The Guidelines are not intended to override local law or expose MNEs to conflicting expectations. MNE compliance with the laws of the country in which they operate is a fundamental principle of the Guidelines.

STATISTICS ON OUTREACH

Between 2016 and as of August 2017, the Office of the U.S. NCP participated in **51** events, targeting **2,679** stakeholders through outreach at:

- **19** events with private sector
- **5** events with civil society
- **5** events with attorneys
- **6** events with academia
- **9** events with NCP counterparts

TESTIMONIALS AND STAKEHOLDER FEEDBACK



PEPSICO

"We had a very favorable experience working with the Office of the U.S. NCP, and we would encourage others to consider the benefits of engaging in constructive dialogue through this process."

"....Any company subject to an NCP specific instance complaint should fully evaluate the considerable benefits that participating in the NCP process can offer in terms of meeting the corporate responsibility to respect human rights..."



"The Office of the U.S. National Contact Point (U.S. NCP) has a dedicated and responsive staff, clear procedures, and the ability to call in professional, external mediators. Recent years have seen the U.S. NCP process improve significantly in terms of functionality..."

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